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Sentence

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

14 Cr. 0808 (GHW)

5 KAREN ALAMEDDINE,

6 Defendant.

7 -----x

8
9 January 20, 2016
12:13 p.m.

10 Before:

11 HON. GREGORY H. WOODS,

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the
Southern District of New York

17 BY: STANLEY J. OKULA

Assistant United States Attorney

18 JOSHUA DRATEL

19 Attorney for Defendant

20 - also present -

21 Virginia Faughnan, U.S. Postal Inspector

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1 THE CLERK: The Court calls the case of United States
2 versus Karen Alameddine, 14 CR. 808.

3 Counsel, please state your name for the record.

4 MR. OKULA: Good afternoon, your Honor. Stanley Okula
5 for the United States and seated with me at counsel table is
6 United States Postal Inspector Virginia Colombo -- I'm sorry,
7 Virginia Faughnan. I am still transitioning to her new married
8 name.

9 THE COURT: Thank very much. Good afternoon.

10 MR. DRATEL: Joshua Dratel for Ms. Alameddine, your
11 Honor, seated beside me.

12 THE COURT: Thank you very much. Good afternoon.

13 First, let me apologize for the fact this proceeding
14 is beginning so late. This is unusual in this court and I
15 apologize for the delay. Mr. Dratel, I'm also sorry that we
16 were unable to accommodate your request this morning for an
17 adjournment of this sentencing. I rejected the request mindful
18 of the fact that there have been three prior extensions of this
19 sentencing and with the knowledge that people who are victims
20 of the offense might be present. I understand that a prior
21 adjournment resulted in some victims appearing at a courtroom
22 with no people. I didn't think it would be appropriate for me
23 to adversely affect scheduled people who had planned for this
24 day as a result of the fact that, as I understand it, you are
25 under the weather.

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1 Good. So we are here for a sentencing proceeding for
2 Ms. Alameddine. Let me review the materials that I have
3 received and reviewed in connection with this proceeding.

4 First, I have reviewed the presentence report, dated
5 January 13, 2016; the defendant's sentencing memorandum, dated
6 December 7, 2015, together with its exhibits; the government's
7 sentencing memorandum, dated January 10, 2016; and a letter
8 from Mr. Jonathan Guest, CEO Hereditary Disease Foundation,
9 dated September 10, 2015.

10 Have each of the parties received all of these
11 materials?

12 MR. OKULA: Yes, your Honor, on behalf of the
13 government.

14 MR. DRATEL: Yes, your Honor.

15 THE COURT: Thank you.

16 Have the two sentencing memoranda been filed with the
17 Clerk of Court?

18 MR. OKULA: Yes on behalf of the government.

19 MR. DRATEL: Yes, your Honor.

20 THE COURT: Thank you. Are there any other
21 submissions in connection with the sentencing?

22 MR. OKULA: No, your Honor.

23 MR. DRATEL: Not to my knowledge, your Honor.

24 THE COURT: Thank you. Mr. Dratel, have you read the
25 presentence report?

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1 MR. DRATEL: Yes.

2 THE COURT: Thank you. Ms. Alameddine, have you read
3 the presentence report?

4 You can remain seated until I ask you to rise. Thank
5 you.

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Thank you. Have you discussed it with
8 your counsel?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Have you had the opportunity to review
11 with your counsel any errors in the presentence report or any
12 other issues that should be addressed by the Court?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Thank you.

15 Mr. Okula, have you read the presentence report?

16 MR. OKULA: I have indeed, your Honor.

17 THE COURT: Do you have any objections related to the
18 factual accuracy of the presentence report?

19 MR. OKULA: Only those that are advanced in our
20 sentencing memo --

21 THE COURT: With respect to restitution?

22 MR. OKULA: With respect -- correct, the component
23 parts and the total figure of restitution as well as -- well,
24 the Court has the revised sentencing guidelines so that is no
25 longer an issue. So, yes, simply stated, with respect to the

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1 restitution, the final number and components.

2 THE COURT: Thank you. I will discuss that
3 momentarily.

4 Mr. Dratel, do you have any objections related to the
5 factual accuracy of the presentence report?

6 MR. DRATEL: Again, restitution.

7 THE COURT: Thank you. Now, with respect to the
8 amount of restitution that is due, the PSR calculates that
9 restitution in the total amount of \$2,877,213.66 is due,
10 consisting of \$2,123,213.66 to the HDC, 100,000 to Everest
11 National Insurance Company, and \$578,000 to the IRS. At the
12 same time, as just suggested by Mr. Okula, the government's
13 sentencing memorandum calculates the amount owing to the HDC
14 and the IRS differently. The government calculates that
15 \$2,034,839 are owed to the HDC and \$640,144 is owed to the IRS.

16 Mr. Okula, can I confirm that the \$100,000 that the
17 PSR states is due to Everest is unaffected by your
18 calculations?

19 MR. OKULA: No, it would be affected, your Honor. So
20 the gross number that is due to the HDF is the 2,034,839. The
21 Court should and we're respectfully requesting the Court to
22 back out the 100,000 payable to Everest, yielding a
23 \$1,934,839 figure that's appropriately due to the HDF.

24 THE COURT: Good. Thank you. In which case the
25 government's calculation of the aggregate restitution due would

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1 result in a total restitution amount of \$2,674,983; is that
2 correct?

3 MR. OKULA: It is, your Honor.

4 THE COURT: Thank you. I calculate that to be
5 \$202,230.66 less than the restitution amount calculated by the
6 PSR. Do the parties agree with that calculation?

7 MR. OKULA: We do. And if it is at all helpful to the
8 Court, your Honor, I have discussed in the wake of our
9 submission with Mr. Guest, the CEO of the HDF, about the
10 disconnect or disparity in our figures. And Mr. Guest has
11 authorized me to represent that he is comfortable and supports
12 the numbers that the government had reached and is advancing to
13 the Court.

14 THE COURT: Good. Thank you very much.

15 Can I ask whether the parties agree that the correct
16 amounts that the Court should use for calculating restitution
17 are the modified amounts due to the HDC, including Everest and
18 the IRS, as set forth in the United States' sentencing
19 memorandum?

20 MR. OKULA: We believe that is the correct number,
21 yes, Judge.

22 MR. DRATEL: Yes, your Honor.

23 THE COURT: Good. Thank you.

24 Given that there are no objections to the factual
25 recitations in the presentence report, I adopt the factual

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1 recitations in the presentence report with the modification
2 agreed to by the parties that the restitution amount owed to
3 the HDC, inclusive of \$100,000 to Everest, is \$2,034,839 and
4 that the amount owed to the IRS is \$640,144.

5 The presentence report will be made a part of the
6 record in this matter and will be placed under seal. If an
7 appeal is taken, counsel on appeal may have access to the
8 sealed report without further application to the Court.

9 Now, although district courts are no longer required
10 to follow the Sentencing Guidelines, we are still required to
11 consider the applicable Sentencing Guidelines' range in
12 imposing sentence, and to do so it is necessary that we
13 accurately calculate the sentencing range.

14 In this case the defendant pleaded guilty pursuant to
15 a plea agreement to one count of wire fraud, in violation of 18
16 U.S.C. Section 1343, and to one count of tax evasion, in
17 violation of 26 U.S.C. Section 7201. There is a plea agreement
18 in this case in which the parties stipulated to a particular
19 calculation of the Sentencing Guidelines.

20 Counsel, can I confirm that I am correct that the
21 calculation in the presentence report is substantively
22 consistent with that agreement but for the fact that the
23 presentence report takes into account the updated November 2015
24 Sentencing Guidelines?

25 MR. OKULA: It is correct, your Honor.

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1 THE COURT: Thank you.

2 MR. DRATEL: Yes. The revised presentence report,
3 your Honor.

4 THE COURT: Thank you.

5 Mr. Okula, does the government agree that a two-level
6 adjustment is appropriate in this case under Section 3E1.1(a)?

7 MR. OKULA: I'm sorry. You are referring to the
8 adjustment, your Honor, for --

9 THE COURT: Acceptance of responsibility?

10 MR. OKULA: Yes, your Honor. Thank you.

11 THE COURT: Is the government moving for an additional
12 one-level adjustment under Section 3E1.1(d)?

13 MR. OKULA: We are indeed, Judge.

14 THE COURT: Thank you.

15 I calculate the Sentencing Guidelines in a manner
16 consistent with the presentence report. The applicable
17 Sentencing Guidelines manual is the November 1, 2015 Sentencing
18 Guidelines manual. The two offenses to which the defendant
19 pleaded guilty are grouped for guidelines calculation purposes
20 pursuant to Section 3D1.2(d).

21 The applicable sentencing guideline applicable to
22 Count One, wire fraud, is Section 2B1.1, and the sentencing
23 guideline applicable to Count Seven, tax evasion, is Section
24 2T1.1. Pursuant to Section 3D1.3(b), in the case of counts
25 grouped together under Section 3D1.2(d), the offense level

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1 applicable to the group is the one which produces the highest
2 offense level, which in this case is Section 2T1.1.

3 Section 2T1.1 provides that the base offense level is
4 derived from the tax table in Section 2T4.1. Pursuant to
5 Section 2T4.1(i), the base offense level is 22 because the
6 total loss amount was more than 1,500,000 and less than or
7 equal to 3,500,000 when I aggregate the loss amount associated
8 with the underlying fraud offense or with the tax loss
9 associated with the tax offense.

10 Because the defendant failed to report or to directly
11 identify the source of income exceeding \$10,000 in any year
12 from criminal activity, a two-level increase is warranted
13 pursuant to Section 2T1.1(b)(1). Because the defendant abused
14 a position of public or private trust and used a special skill
15 in a manner that significantly facilitated the commission or
16 concealment of the offense, a two-level increase is warranted
17 pursuant to Section 3B1.3.

18 Because the defendant has demonstrated acceptance of
19 responsibility for her offense through her plea allocation, I
20 apply a two-level reduction pursuant to Section 3E1.1(a). Upon
21 motion by the government, an additional one-level adjustment is
22 warranted under Section 3E1.1(b). As a result, the applicable
23 guidelines offense level is 23. The defendant has no criminal
24 history points. Therefore, her criminal history category is I.

25 In the plea agreement, counsel, can I confirm that

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1 both parties agreed not to seek a departure from the
2 guidelines' sentence, is that correct?

3 MR. OKULA: That is correct, your Honor.

4 THE COURT: Mr. Dratel?

5 MR. DRATEL: For a formal departure, that is correct.

6 THE COURT: Thank you. Nonetheless, I have to
7 consider whether there is an appropriate basis for departure
8 within the advisory guideline range within the guidelines'
9 system, and while I recognize that I have the authority to
10 depart, I do not find any grounds warranting a departure under
11 the guidelines. In sum, the offense level is 23 and the
12 criminal history category is I. Therefore, the guidelines'
13 range in this matter is 46 to 57 months imprisonment?

14 Does either party have any objections to the
15 Sentencing Guidelines' calculation?

16 MR. OKULA: No, your Honor.

17 MR. DRATEL: No, your Honor.

18 THE COURT: Thank you very much.

19 Mr. Dratel, can I please turn to you? Do you wish to
20 be heard with respect to sentencing?

21 MR. DRATEL: Yes, your Honor. Thank you.

22 THE COURT: Thank you.

23 MR. DRATEL: And I'm not going to repeat what's in the
24 written submission but touch on some of the things I think that
25 are important in forming the sentence. And the first is that

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1 obviously Ms. Alameddine pleads guilty. She acknowledged her
2 conduct very quickly -- no motions, no contest. Remorse is
3 apparent. Remorse, however, is just a concept. The real issue
4 is trying to somehow compensate for her conduct, and in that
5 context, the most important aspect, I think, on a practical
6 level as well as a legal level is restitution and what's going
7 to happen going forward.

8 So the longer Ms. Alameddine spends in prison, the
9 longer authentic restitution will be delayed, the shorter time
10 period there will be for her viable employment life for there
11 to be restitution. And while there is no formula for it,
12 certainly someone who gets out -- she is already 58. Someone
13 who gets out at an age, each day, each month each year becomes
14 more difficult to get employment that would generate the kind
15 of income that could make authentic restitution. So all of
16 these factors militate for, I think, a sentence that is on the
17 shorter side, below the guidelines, with respect to jail time
18 so that the true recompense that could be generated by her
19 sentence would begin earlier, begin more in earnest, and last
20 longer and be more fruitful and productive for the Foundation.

21 I know that the concept of general deterrence has been
22 raised here. There is no literature that supports the concept
23 of general deterrence as a basis for a longer sentence. In
24 fact, the literature goes in the opposite direction; it has no
25 impact. There is no formula for it. So automatically there is

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1 a disparity in terms of what one judge does and what another
2 judge does. So I think the general deterrence has to be
3 measured in that regard. And also, even practically, general
4 deterrence just doesn't have a place in this particular
5 sentencing for a couple of reasons, one of which is, again, if
6 as I think the most important aspect is trying to do for the
7 Foundation what can be done not abstractly by more punishment
8 but concretely, tangibly, by restitution, then general
9 deterrence has to take a back seat to that.

10 The second part is that general deterrence as a matter
11 of one sentence versus another is completely illusory. A
12 sentence at 46 months, the bottom of the guidelines, has no
13 bearing on general deterrence versus a sentence a year or 18
14 months below that. No one makes that calculation. No one
15 says, oh, I'll commit this crime if it is only three years and
16 not four years. There is no basis for that. That's
17 mythological in the context of what occurs.

18 But more importantly, again, the lower the sentence,
19 the earlier restitution, the better a job she can get, the more
20 restitution she can pay, and the longer that restitution can
21 continue while Ms. Alameddine is employable and can be viably
22 employed given her age. And so I think all of those factors
23 make a sentence sufficient but not greater than necessary one
24 that is considerably below the guidelines to get to the heart
25 of what can be done tangibly. Because while it may satisfy

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1 certain emotional aspects of a sentence and the length, it will
2 not be -- it will not be of any use for the Foundation as soon
3 as we leave the courtroom. What will be of use to the
4 Foundation will be when Ms. Alameddine can begin to make
5 restitution in earnest.

6 Thank you, your Honor.

7 THE COURT: Thank you. Mr. Dratel, can I ask one
8 question --

9 MR. DRATEL: Sure.

10 THE COURT: -- just to anticipate an argument that I
11 expect the United States to make based on their sentencing
12 memorandum?

13 Mr. Okula describes one of the, quote, enduring
14 mysteries of this case as the whereabouts of the stolen funds.
15 Do you wish to address that issue?

16 MR. DRATEL: Well, I think there are a couple of
17 things. One is obviously a significant amount was spent
18 pursuing a lifestyle beyond the means for which the ordinary
19 lawful income would have supported. The second is there are
20 some assets that the government has. I think in total it's
21 probably -- it's hard to know because some of these assets
22 probably need to be sold so the question of what their value
23 would be down the road or currently, I don't know. But
24 probably in the range of a quarter of a million dollars I think
25 of between bank accounts and property and other -- personal

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1 property and real property and things like that that are out
2 there that the government has seized and which Ms. Alameddine
3 obviously makes no claim to.

4 But, unfortunately, this was over the course of a few
5 years, and so in the course of a few years her husband was
6 disabled during much of this period so she is supporting him as
7 well, and they were spending some time overseas, where he is
8 from, and some in New York -- not in New York but California at
9 the end of the process, and so I don't know that we have a --
10 there is no money out there that has not been turned over or
11 seized by the government.

12 THE COURT: Thank you very much.

13 Can I turn to you, Ms. Alameddine? Do you wish to
14 make a statement to the Court?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Thank you. Please rise.

17 THE DEFENDANT: Your Honor, I want to say to Dr. Nancy
18 Wexler, to the Foundation, to the Board, to Dr. Pardes and to
19 Dr. Alex Wexler that I am truly sorry for what I did. And I
20 know that I hurt a lot of people in my actions and especially
21 the years that the Foundation put into trying to help other
22 people and I was basically selfish. But I wanted to say that
23 in 14 months that I have been incarcerated, I've really had a
24 chance to look at my behavior. And it's my goal, my desire
25 and, God willing, I will be able to pay back the Foundation

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1 every penny that I took. And I'm very sorry for what I did,
2 and I just hope that one day they will be able to forgive me.

3 And I want to apologize to my family as well.

4 That's all, your Honor.

5 THE COURT: Thank you very much, Ms. Alameddine.

6 Mr. Okula, does the government wish to be heard with
7 respect to sentencing?

8 MR. OKULA: Yes, briefly, your Honor, and I, too, do
9 not intend to repeat all of the points we made in our
10 sentencing memo but I would like to deal with essentially two
11 things, your Honor, first respond to certain of the points made
12 by Mr. Dratel and also to outline some other factors I think,
13 most respectfully, should be front and center in the Court's
14 consideration of where the Court should impose sentence.

15 First I would like to note that Mr. Guest as well as
16 Nancy Wexler, the President of the HDF, are here in court
17 today. Mr. Guest is here and Ms. Wexler to the far left are
18 seated in the court.

19 With respect to Mr. Dratel's argument or framing of
20 the issue as one -- or the essential goal today being how to
21 compensate the HDF, I think, most respectfully, your Honor,
22 that is the wrong prism through which the Court should view the
23 important factors of sentencing. The principal reason for
24 that, Judge, is as a result of her conviction for fraud as a
25 professional, the defendant probably will be able to obtain

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1 some sort of employment after she is released from
2 incarceration, but the notion that she is going to be able to
3 find gainful employment with these multiple fraud convictions
4 sufficient that she is going to make meaningful compensation or
5 restitutionary payments to the HDF I think is a farfetched
6 notion. I just don't think -- and my experience in this area
7 sort of bears this out, having prosecuted a good number of
8 professionals and finding out how they try to fare in the
9 world -- the working world in the wake of serving time in
10 prison or in the wake of pleading guilty to a fraud charge.
11 There is no meaningful, I think, compensation that she is going
12 to experience that is beyond her own living costs and the costs
13 for her dependents that she is going to be able to make to the
14 HDF. I respectfully suggest that that is not the correct prism
15 through which to view the important factors at sentencing.

16 I think, your Honor, the issue of general deterrence
17 is vitally important here as well as an understanding of the
18 incalculable harm that was caused to the HDF. Taking the
19 second point first -- and Mr. Guest alludes to this in his
20 victim letter but I think it is worthy of repeating to the
21 Court. The HDF did not just suffer the monetary loss of the
22 millions that the defendant stole over the periods of years.
23 Their reputation was harmed, your Honor. There was and is
24 skittishness on behalf of people who had contributed to the HDF
25 in the past to making further contributions as a result of what

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1 they perceived as a potential lack of control at the HDF. So
2 that harm caused this organization, an organization that beyond
3 dispute does terrific work for the good of mankind. The harm
4 that they caused by even one person who may be disinclined to
5 give as much money or may refuse to give money in the future
6 because they saw the defendant take advantage of the trust that
7 the HDF placed in her I think is a harm that the Court should
8 consider very seriously when imposing sentence.

9 The HDF is not in the position it was before the
10 defendant started this and before it came to light about the
11 defendant's crimes. And so the pain, the cause to the victim
12 in this regard I think should be front and center when the
13 Court imposes sentence.

14 And more broadly speaking, I think the message of
15 general deterrence to people who are given these positions of
16 trust to people with accounting backgrounds and tax backgrounds
17 who are trusted by their organizations to do good by them --
18 after all, the defendant was allowed by the New York-based HDF
19 essentially to carry on her duties from California because the
20 defendant convinced the organization that her family
21 responsibilities and other things in California should let
22 her -- they should let her work from there. For years they let
23 her do that. They bent over backwards making accommodations
24 for her, and the way she paid them back was essentially to
25 engage in the acts that she did.

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1 So the message, I think, your Honor, for people who
2 are insiders who are trusted by organizations to keep safe
3 their funds, particularly nonprofit organizations who are not
4 in the money-making game but are in the do-good game, I think
5 is important that a strong message be sent out to those people
6 who consider whether it is going to in the end pay for them to
7 engage in this type of conduct.

8 I think that covers most of the points that I wanted
9 to cover, your Honor. I do want to address the "where is the
10 money" issue that we alluded to in our memo. And we raise that
11 issue, your Honor, because as part of the financial
12 investigation we did of the defendant in a case like this, we
13 typically ask, or look, to see whether the defendant is living
14 beyond his or her means, whether there are numerous extravagant
15 purchases that seem to account for where the money went. There
16 is an absence of that here, your Honor. To be sure, there are
17 some indications that money was spent on, for instance, this
18 recreational vehicle that took up a couple of hundred thousand
19 dollars and was largely financed, but beyond that and beyond
20 some small purchases of jewelry and the like, there wasn't an
21 extensive indication of living beyond means. No extensive real
22 estate purchases and things like that.

23 So I think that there is a significant issue of "where
24 is the money." There were indications, your Honor, that the
25 defendant made transfers of some of the funds I think to or on

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1 behalf of her husband, who is in the Middle East and remains in
2 the Middle East and has not made a statement in connection with
3 this sentencing on behalf of the defendant. The amount that
4 wases forfeited or seized by the government totals
5 approximately \$200,000. There is about \$180,000 in the bank
6 account that we froze. And property wise, I think the net that
7 is going to be brought after the marshal's sale and disposition
8 of the assets is probably another 20 to \$30,000, bringing it to
9 about 200,000, maybe a little bit higher, but that is a far cry
10 from the aggregate amount that was taken by the defendant over
11 the course of this scheme.

12 And my final point, your Honor, and it is tied into
13 this issue of where is the money, Mr. Dratel in his sentencing
14 memo, which otherwise covers all of the issue, he argues that
15 the defendant has demonstrated basically super remorse or
16 remorse beyond that present in a case. I submit, your Honor,
17 that if the defendant really wanted to come clean with respect
18 to the victim, she would have immediately upon being arrested
19 and realizing what deep water she was in try to work with them,
20 try to collaborate with the HDF, make an elaborate written
21 submission about where the money went, to try to account for it
22 in some manner or form, but we have seen nothing like that,
23 your Honor.

24 So I think that a defendant who was caught redhanded,
25 as she was, who has been incarcerated since the time of her

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1 offense and who has met every opportunity since her
2 incarceration to provide a roadmap to the victim about how and
3 where the money was taken, I think the absence of that shows
4 that her remorse is basically too little too late, your Honor.

5 Unless the Court has any further questions, we would
6 respectfully suggest that the Court follow the recommendation
7 of Probation, who recommended a 60-month sentence in this case,
8 your Honor. Thank you.

9 THE COURT: Thank you very much. Is there any --

10 MR. DRATEL: Your Honor.

11 THE COURT: Yes, Mr. Dratel.

12 MR. DRATEL: May I?

13 THE COURT: Please.

14 MR. DRATEL: First, the last bit, that actually
15 contradicts the government's position in the sentencing memo,
16 which is that the Sentencing Guidelines is a reasonable
17 sentence and therefore that would have to control, that if
18 there are two reasonable sentences below, that sentence always
19 controls.

20 So to take the last points first, there is no
21 provision, and, you know, someone in a criminal case and there
22 is no obligation for the kind of process that the government
23 has suggested here. But even with that, Ms. Alameddine has
24 done that. We filed a very comprehensive CJA affidavit, and as
25 the Court may recall, that required some effort when I came in

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1 as counsel because of trying to list all the assets. Ms.
2 Alameddine filed a comprehensive financial disclosure form with
3 Probation as well. There were real estate purchases. There
4 are horses and things like that. So there was a lifestyle that
5 was created as a result of this. And it's impossible to prove
6 a negative, but you would think that given the fact that the
7 government has all of the bank records and everything, they
8 could come up with something tangible to establish a
9 positive -- in other words, that there is money out there that
10 is not accounted for -- as opposed to making us prove a
11 negative, which we cannot do. So in that respect I don't think
12 that is an appropriate factor to take into account here because
13 the facts don't establish it and the government can't just
14 speculate about it and get a higher sentence as a result.

15 Second, the government suggests that she should trade
16 prison time for restitution because restitution won't be
17 sufficient at the end of the day. I don't think that is an
18 appropriate doctrine for sentencing either, particularly in the
19 context of what's at issue here. We're trying to recover every
20 penny possible for the Foundation for the future. The way to
21 do it is a shorter sentence, not to add time, because the full
22 restitution may not be made within the course of Ms.
23 Alameddine's lifetime. I don't think that is an appropriate
24 measure of sentencing.

25 Nothing about additional jail time will restore the

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1 reputation of the Foundation. The only restoration for the
2 Foundation at this point is monetary. When we leave here
3 today, there will be no message to anyone. No one will get any
4 message. The only people affected by this sentence will be Ms.
5 Alameddine and the Foundation, and the lower the sentence, it
6 will be negative for both of them. And the incremental notion
7 of a longer sentence somehow having a general deterrence, in
8 fact, even if general deterrence exists in the world, for which
9 there is no literature that supports that, but even if that
10 were the case, an incrementally longer sentence has no impact
11 in the general deterrence context. But it does have an
12 impact -- an incrementally shorter sentence does have an impact
13 for what happens once this process is over and once all the
14 emotional aspect is gone is that the Foundation will get more
15 money. There are families that go to watch people get executed
16 and they don't walk away with closure. It is nearly unanimous
17 in that regard. What matters here are the dollars that were
18 taken and the dollars that could be given back during the
19 course of Ms. Alameddine's lifetime. And the Court has power
20 to set a percentage of gross income and done. So there can be
21 authentic restitution here.

22 Thank you, your Honor.

23 THE COURT: Thank you very much.

24 Mr. Okula, would you care to make any additional
25 remarks?

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1 MR. OKULA: No, your Honor. Thank you.

2 THE COURT: Thank you.

3 Are there any victims present who wish to address the
4 Court?

5 (Pause)

6 MR. OKULA: I have been informed, because I spoke with
7 Mr. Guest beforehand, that unless the Court has any specific
8 inquiries, that Mr. Guest and Ms. Wexler and the HDF are
9 prepared to rest on the submission that they made, your Honor.

10 THE COURT: Thank you very much.

11 Is there any reason that a sentence should not be
12 imposed at this time?

13 MR. OKULA: No, your Honor.

14 MR. DRATEL: No, your Honor.

15 THE COURT: Thank you.

16 I will now describe the sentence that I intend to
17 impose, but counsel will have a final opportunity to make legal
18 objections before the sentence is finally imposed.

19 As I've stated, the guidelines' range applicable to
20 this case is 46 to 57 months of imprisonment. I've considered
21 the guidelines' range. Under the Supreme Court's decision in
22 Booker and its progeny, the guidelines' range is only one
23 factor that I must consider in deciding the appropriate
24 sentence. I'm also required to consider the other factors set
25 forth in 18 U.S.C. Section 3553(a). These include, first, the

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1 nature and circumstances of the offense and the history and
2 characteristics of the defendant; second, the need for the
3 sentence imposed to (a) reflect the seriousness of the offense,
4 to promote respect for the law, and to provide just punishment
5 for the offense, (b) to afford adequate deterrence to criminal
6 conduct, (c) to protect the public from further crimes of the
7 defendant, and (d) to provide the defendant with needed
8 education or vocational training, medical care or other
9 correctional treatment in the most effective manner; third, the
10 kinds of sentences available; fourth, the guidelines' range;
11 fifth, any pertinent policy statement; sixth, the need to avoid
12 unwarranted sentence disparities among defendants with similar
13 records who have been found guilty of similar conduct; and,
14 seventh, the need to provide restitution to any victims of the
15 offense. Ultimately, I'm required to impose a sentence
16 sufficient but no greater than necessary to comply with the
17 purposes of sentencing that I mentioned a moment ago as set
18 forth in the statute at Section 3553(a).

19 Now, I have given substantial thought and attention to
20 the appropriate sentence in this case, considering all of the
21 3553(a) factors and the purposes of sentencing as reflected in
22 the statute. Now, based on a review of all of the factors,
23 which I will discuss in more detail in a moment, I intend to
24 impose a guidelines' sentence of 48 months of incarceration to
25 be followed by three years of supervised release, subject to

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1 the mandatory and special conditions described in the
2 presentence report, which I'll describe with more specificity
3 later. I do expect to order restitution and to impose a
4 forfeiture order. I do not expect to impose a fine. I will
5 impose the mandatory fee of \$100 for each offense to which the
6 defendant pleaded guilty. I'll discuss each of those points
7 with more specificity after I have reviewed my reasoning.

8 First, this offense is, I believe, truly
9 reprehensible. Ms. Alameddine was in a position of trust at
10 the Hereditary Disease Foundation, a charity dedicating its
11 purpose and efforts to curing Huntington's Disease, a
12 devastating illness. After the only other financial person
13 working for the organization left and she had sole care of the
14 charity's finances as its CFO, Ms. Alameddine began to abuse
15 that trust. Over the course of many years as described in the
16 PSR, she orchestrated the theft of large amounts of money in a
17 sophisticated way, taking advantage not only of the
18 organization's trust in her but also the special skills that
19 she applied to obscure her illegal activities.

20 She was very successful in her efforts to hide her
21 activity. It was only after she voluntarily left the
22 organization, having secreted away over \$2 million, that Ms.
23 Alameddine's fraud was discovered. The Hereditary Disease
24 Foundation spent large amounts of money, as I understand it, to
25 untangle Ms. Alameddine's web of deception, and I am told that

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1 the organization was shaken with donors and beneficiaries
2 understandably questioning whether the HDF was the best
3 investment of time and money in light of the revelation of the
4 corruption of the organization's CFO.

5 In sum, with respect to the nature of this offense,
6 Ms. Alameddine stole money, stole research funds designed to
7 provide hope for people suffering from a devastating illness,
8 and in the process cheated her government and fellow taxpayers,
9 all to fuel what she described here as her selfishness, to fuel
10 her greed.

11 Ms. Alameddine was born in Detroit in 1957. The PSR
12 describes that Ms. Alameddine described to the probation
13 officer a happy childhood with her two brothers. Her father
14 was an orthopedic surgeon. Her mother, an accountant, raised
15 her and the other children. I understand that Ms. Alameddine's
16 childhood was not perfect, that she suffered from two
17 unforgivable instances of abuse. Still, she had opportunities
18 that are frankly not available to most of the defendants that I
19 sentence here.

20 My sense, as described by Ms. Willgren in her letter
21 to me, is that, as Ms. Willgren stated, Ms. Alameddine is,
22 quote, an exceptionally intelligent and creative individual,
23 close quote. She worked to get her college degree and
24 ultimately her MDA, and I understand that she did positive work
25 at her job in the Bronx before departing to the Foundation.

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1 I recognize that Ms. Alameddine has struggled with
2 weight and alcoholism. She has been in therapy since age 19,
3 including for depression and anxiety. A letter from Ms. May,
4 highlighted in Ms. Alameddine's submission to me, describes Ms.
5 Alameddine's situation at the Foundation as a, quote, pressure
6 cooker, close quote, that increased her anxiety, and Ms.
7 Alameddine's drinking issue grew worse to deal with the stress
8 at work.

9 Frankly, I do not know -- Ms. May does not say --
10 whether the stress of her experience of that job was a result
11 of the fact that she was perpetrating a massive, complicated
12 fraud on her employer as opposed to any other stressor. At the
13 same time, I recognize those are real challenges that Ms.
14 Alameddine faced.

15 She has a supportive, though I understand long
16 distance, relationship with her husband, and I know from the
17 letters that I received that she has a supportive family and
18 friends.

19 Ms. Alameddine expressed her remorse for the crime to
20 me in letter and again here at sentencing. She has offered to
21 agree to pay restitution and to forfeit her assets that the
22 government has located. I appreciate both of those things, and
23 I appreciate Mr. Dratel's remarks regarding the difficulty of
24 proving a negative, the nonexistence of other funds. What
25 Mr. Okula argues, though, is a positive, which is the lack of

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1 assistance in tracing the full amount of the funds that Ms.
2 Alameddine stole.

3 In this instance, given the nature of Ms. Alameddine's
4 crime, which involved an extended, protracted deception, it's
5 difficult for me to distinguish true remorse from regret now
6 that she has been caught and is experiencing the adverse
7 consequences of her decisions. The letters that I received
8 from Ms. Alameddine and her friends and family regarding her
9 remorse do not offset the evidence of Ms. Alameddine's poor
10 character as illustrated by the long-running abuse of trust and
11 stealing money from the Foundation.

12 While the PSR reports that Ms. Alameddine told the
13 officer that she decided to leave the HDC because she did not
14 wish to perpetrate the fraud any more, I cannot tell if that
15 decision was driven by remorse or if having stolen more than \$2
16 million she had simply met her illegal goal. I do not know.

17 I believe that a significant sentence is important in
18 this case to impose a just punishment. I'm required to
19 consider the deterrent effect both on Ms. Alameddine personally
20 and general deterrence pursuant to the statute. The parties'
21 submissions on this point were quite comprehensive.

22 I hope that the likelihood that Ms. Alameddine will be
23 placed in a position of trust, to steal as she did from the
24 Foundation, is low. At the same time, she has real skills and
25 intelligence and creativity, which I do not doubt. So I do not

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1 think that she will commit this crime in the same way again. I
2 do believe that there is a need to prevent her from applying
3 those same skills to criminal ends in the future.

4 Moreover, understanding the comments by Mr. Dratel, I
5 believe that there is a real need for a significant sentence to
6 further the goals of general deterrence. Ms. Alameddine, like
7 other white-collar criminals, made a conscientious decision --
8 this is what business people do, they balance risk with reward.
9 This is a sophisticated person with an MBA who can balance risk
10 and reward. This is not a person who is dealing drugs on the
11 street with no other options and no ability to evaluate their
12 choices. Given the discount to risk as a result of the
13 difficulty of uncovering this type of financial crime, I
14 believe that white-collar criminals should have in mind the
15 prospect of a significant sentence as they do that mental
16 calculation, as Ms. Alameddine did the mental calculation
17 between the harm that she would do, her own personal needs, and
18 the risk that she was undertaking by committing her criminal
19 acts.

20 I believe that Ms. Alameddine will be able to use the
21 period of incarceration for useful training, medical care and
22 other correctional needs. I very much appreciate the work that
23 Ms. Alameddine has done while incarcerated to date. I
24 understand that she has been helpful to other inmates. I hope
25 that Ms. Alameddine will continue to obtain help with alcohol

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1 abuse issues. I hope that time away from alcohol together with
2 the counseling that she will obtain in prison will help her
3 deal with those issues. And I appreciate that Ms. Alameddine
4 has worked over these last several months to improve herself,
5 and I hope that she'll continue to do so after sentencing.

6 I have considered the kinds of sentences available.
7 In this case, given the nature of the offense, I believe that a
8 sentence with a term of imprisonment is appropriate. I have
9 given serious consideration to the guidelines and the policy
10 statements. In this case I believe that a guidelines' sentence
11 is appropriate.

12 I have considered the need to avoid unwarranted
13 sentence disparities with other defendants. I've reviewed the
14 statistics that Mr. Dratel presented in his comprehensive
15 submissions regarding the level of variances in this district,
16 but ultimately by imposing a guideline sentencing I expect I'm
17 furthering the goal of avoiding sentencing disparities in this
18 district and by imposing a guideline sentence. Ultimately,
19 however, as required by the statute, the sentencing decision is
20 one that I must make, focused on the nature of the particular
21 defendant and this offense, and I believe that this is the
22 appropriate sentence for the defendant given my analysis of the
23 factors set forth in the statute.

24 I have considered the need to provide restitution to
25 victims of the offense and I recognize that a longer term of

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1 incarceration will, as Mr. Dratel argues, reduce Ms.
2 Alameddine's opportunity to make additional money to pay
3 restitution. I have weighed that factor in my analysis. At
4 the same time, I take into consideration Mr. Okula's comments
5 regarding the likelihood that further employment will make a
6 meaningful dent on Ms. Alameddine's restitution obligations and
7 I discount it, this factor, somewhat as a result. Still, I've
8 considered it.

9 With that, Ms. Alameddine, please rise for the
10 imposition of sentence.

11 It is the judgment of this Court that you be sentenced
12 to 48 months of imprisonment with respect to Count One and 48
13 months of imprisonment with respect to Count Seven, with those
14 terms to be served concurrently. I find that sentence to be
15 sufficient but not greater than necessary to comply with the
16 purposes of sentencing as set forth in 18 U.S.C., Section
17 3553(a)(2).

18 Ms. Alameddine, following your term of imprisonment, I
19 am sentencing you to a term of three years of supervised
20 release for each of your counts of conviction, with each such
21 term to be served concurrently.

22 The mandatory conditions of supervised release shall
23 apply. They are: The defendant shall not commit another
24 federal, state or local crime. The defendant shall not
25 illegally possess a controlled substance. The defendant shall

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1 not possess a firearm or destructive device. The defendant
2 shall cooperate in the collection of DNA, as directed by the
3 probation officer.

4 The mandatory drug testing condition is suspended due
5 to the imposition of a special condition requiring drug
6 treatment and testing.

7 The standard conditions of supervised release 1
8 through 13 shall apply. In addition, the following special
9 conditions shall apply: The defendant shall submit her person,
10 residence, place of business, vehicle, or any other premises
11 under her control to a search on the basis that the probation
12 officer has reasonable belief that contraband or other evidence
13 of a violation of the conditions of her release may be found.
14 The search must be conducted at a reasonable time and in a
15 reasonable manner. Failure to submit to a search may be
16 grounds for revocation. The defendant shall inform any other
17 residents that the premises may be subject to search pursuant
18 to this condition.

19 The defendant shall participate in an outpatient
20 treatment program approved by the United States Probation
21 Office which program may include testing to determine whether
22 the defendant has reverted to using drugs or alcohol. The
23 defendant shall contribute to the cost of services rendered
24 based on the defendant's ability to pay or availability of
25 third-party payment. The Court authorizes the release of

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1 available drug treatment evaluations and reports, including the
2 presentence investigation report, to the substance abuse
3 treatment provider.

4 The defendant shall participate in an outpatient
5 mental health treatment program approved by the United States
6 Probation Office. The defendant shall continue to take any
7 prescribed medication unless otherwise instructed by the
8 healthcare provider. The defendant shall contribute to the
9 cost of services rendered based on the defendant's ability to
10 pay and the availability of third-party payments.

11 The Court authorizes the release of available
12 psychological and psychiatric evaluations and reports,
13 including the presentence investigation report, to the
14 healthcare provider.

15 The defendant shall not incur new credit charges or
16 open additional lines of credit without the approval of the
17 probation officer unless the defendant is in compliance with
18 the installment payment schedule.

19 In the event that the defendant secures a position
20 that allows her unsupervised access and/or control over an
21 individual, corporation's or other nonnatural persons' assets,
22 she shall inform her employer of her conviction for this
23 offense.

24 The defendant shall provide the probation officer with
25 access to any requested financial information.

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1 The defendant shall be supervised in her district of
2 residence.

3 The defendant is to report to the nearest Probation
4 Office within 72 hours of release from custody.

5 Given that Ms. Alameddine is going to be required to
6 pay restitution and will be required to comply with an order of
7 forfeiture, I am not imposing a fine on the defendant.

8 The defendant must pay to the United States a total
9 special assessment of \$100 for each offense for which she was
10 convicted, for a total of \$200, which shall be due immediately.

11 I'm ordering that the defendant forfeit all property,
12 real and personal, involved in the offense traceable to such
13 property, including a sum of U.S. currency totaling to at least
14 \$1,186,856, which constitutes or was derived from proceeds
15 traceable to the offense and which includes at least the
16 following: (a) Any and all U.S. currency on deposit in account
17 number 9803612739 in the name of Dean & Company LL; (b), any
18 and all U.S. currency on deposit in account number 9804698331
19 in the name of Karen J. Alameddine; (c), any and all U.S.
20 currency on deposit in account number 9804427145 in the name of
21 Karen J. Alameddine; and (d) the various items of jewelry
22 seized from Ms. Alameddine on November 14, 2014 and currently
23 in the custody of the IRS, including but not limited to the
24 specific items of property described in the Indictment for this
25 offense.

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1 Now, I'm also going to order restitution in an amount
2 consistent with our discussion earlier as modified as set forth
3 in the government's memo. The aggregate amount of the
4 restitution that I am going to order is consistent with our
5 conversation previously. The aggregate amount of that
6 restitution is \$2,674,983, to be allocated among the three
7 victims in accordance with the terms of the restitution order.

8 Can I ask, Mr. Okula, is there a form restitution
9 order that the parties would like me to enter?

10 MR. OKULA: I don't have it with me, your Honor. What
11 I respectfully request, your Honor, is, consistent with the
12 Court's pronouncement today of the amounts, being given leave
13 by the Court to present that this afternoon and deliver it to
14 chambers together with the stipulated proposed forfeiture order
15 as well.

16 THE COURT: Thank you very much.

17 Mr. Dratel, is that acceptable to you?

18 MR. DRATEL: Yes, your Honor.

19 THE COURT: Thank you very much.

20 Thank you. Does either counsel know of any legal
21 reason why this sentence shall not be imposed as stated?

22 MR. OKULA: No, your Honor.

23 MR. DRATEL: No, your Honor.

24 THE COURT: Thank you very much.

25 The sentence as stated is imposed. I find that

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1 sentence to be sufficient but not greater than necessary to
2 comply with the purposes of sentencing set forth in the statute
3 at 18 U.S.C. Section 3553(a)(2).

4 Thank you, Ms. Alameddine. You may be seated. Thank
5 you.

6 THE DEFENDANT: Thank you, your Honor.

7 THE COURT: You have a right, Ms. Alameddine, to
8 appeal your conviction and sentence except to whatever extent
9 you may have validly waived that right as part of your plea
10 agreement. The Notice of Appeal must be filed within 14 days
11 of the judgment of conviction. If you are not able to pay the
12 costs of an appeal, you may apply for leave to appeal in forma
13 pauperis. If you request, the Clerk of Court will prepare and
14 file a Notice of Appeal on your behalf.

15 Are there any other applications?

16 MR. OKULA: Yes, your Honor. Pursuant to the terms of
17 the parties' plea agreement, the United States respectfully
18 moves to dismiss at this time Counts Two, Three, Four, Five and
19 Six, which remain open now.

20 THE COURT: Thank you. Mr. Dratel, any objection?

21 MR. DRATEL: No, your Honor.

22 THE COURT: Thank you. I am going to grant that
23 motions and dismiss Counts Two, Three, Four, Five and Six.

24 Are there any other applications?

25 MR. OKULA: None on behalf of the government. Thank

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1 you, your Honor.

2 THE COURT: Thank you. Mr. Dratel?

3 MR. DRATEL: Yes.

4 THE COURT: Thank you.

5 MR. DRATEL: Will the Court recommend designation to
6 FPC Alderson, West Virginia?

7 THE COURT: Thank you. I will be happy to make that
8 recommendation. As you know, the BOP is not bound by it.

9 Let me thank both of you, counsel, for your arguments
10 and sentencing submissions. Both sets of written submissions
11 were among the best submissions that I have received in my
12 short time on the bench. They are very well prepared, and I
13 appreciate the work that went into them.

14 MR. OKULA: Thank you, your Honor.

15 MR. DRATEL: Thank you.

16 THE COURT: Is there anything else that we should
17 discuss?

18 MR. OKULA: Nothing, Judge.

19 MR. DRATEL: No, your Honor.

20 THE COURT: Thank you very much. This proceeding is
21 adjourned.

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